

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

RON GOLAN, et al.,

Plaintiff,

v.

VERITAS ENTERTAINMENT, LLC, et al.,

Defendants.

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No. 4:14CV00069 ERW

**MEMORANDUM AND ORDER**

This matter comes before the Court on Plaintiff Ron Golan's Motion for Sanctions and to Compel against Defendants Freeeats.com, Inc., AIC Communications, LLC, and Gabriel S. Joseph, III [ECF No. 199].

On October 5, 2016, this Court ordered Defendants Freeeats.com, Inc., AIC Communications, LLC, and Gabriel S. Joseph, III ("Defendants") to produce an electronic list of all people called by Defendants in this matter. Plaintiff Ron Golan ("Plaintiff") asks the Court to order Defendants to obey the order issued on October 5, 2016, and to sanction Defendants for their willful failure to obey the order. Plaintiff's document request which prompted the prior motion to compel and order requested as follows:

Request (1): Please produce (without redaction) all documents which state the name or telephone number for some or all of the households or persons telephoned by Defendant AIC Communications, LLC for the Last Ounce of Courage movie campaign.

In response to the Court's order, Defendants produced five files, four of which include telephone numbers but no names or addresses, and one of which includes telephone numbers, names and addresses.

Defendants have complied with Plaintiff's discovery request to the best of their ability. According to Defendants, they have produced all responsive documents; they do not have any additional lists of telephone numbers with names and addresses to produce. Defendants received telephone numbers from a database licensed from Axiom Telephone Services, LLC. The name and address from the database for all of the telephone numbers called by Defendants was not recorded, only contact information for those who answered the telephone and completed the survey was recorded. Therefore, Defendants only have the names and addresses for a small portion of the telephone numbers. There is no other information to be provided to Plaintiff.

Plaintiff argues Defendants are guilty of spoliation of evidence. According to Plaintiff, Defendants were subpoenaed and deposed in 2013, when they were not yet defendants in this matter. At this time, there is no evidence Defendants are guilty of spoliation of evidence. There is no evidence Defendants destroyed this evidence, because there is no evidence they were ever in possession of the database with all of the names and numbers. Secondly, Plaintiff has not produced any support for the argument Defendants should have anticipated being a party; when Defendants were subpoenaed and deposed, they were not defendants in this matter. Therefore, at this time, the Court will deny Plaintiff's Motion for Sanctions and to Compel.

Accordingly,

**IT IS HEREBY ORDERED** that Motion for Sanctions and to Compel against Defendants Freeeats.com, Inc., AIC Communications, LLC, and Gabriel S. Joseph, III [ECF No. 199] is **DENIED**.

Dated this 19th Day of January, 2017.



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E. RICHARD WEBBER  
SENIOR UNITED STATES DISTRICT JUDGE